

**Applicant:** Joe H. & Mary Ellen Gonzales

**Agent:** Jonathan M. Gonzales

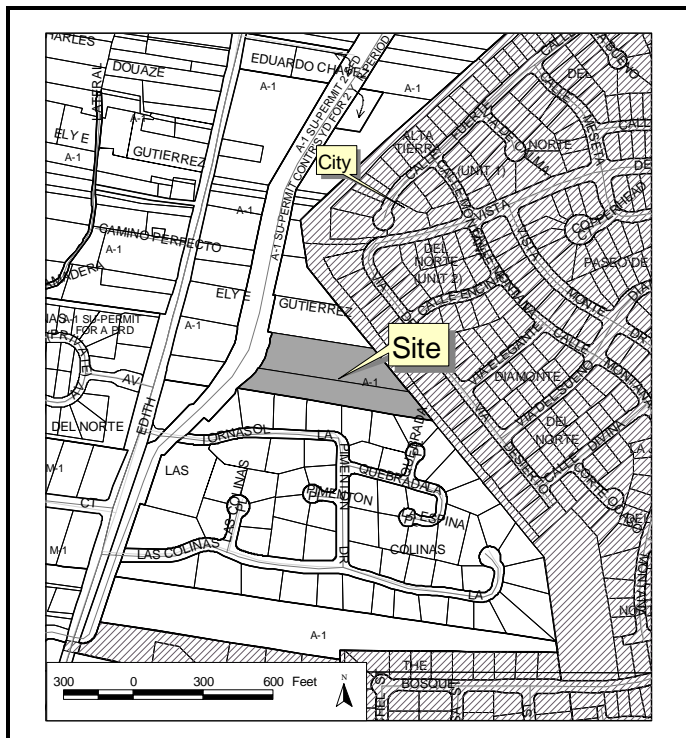
**Location:** 7432 Edith Blvd.

**Property Size:** 3.83 acres (approximately)

**Existing Zone:** A-1

**Proposed Zoning/SUP** R-1

**Recommendation:** Deferral



**Summary:** This request is for a zone map amendment from A-1 to R-1 zoning on a 3.83 acre (approximately) property to the east of Edith Blvd., about a mile north of Osuna Rd. If approved, R-1 zoning would allow the applicant to develop a five lot residential subdivision with lot sizes of about one-half acre, based upon the Comprehensive Plan Semi-Urban Area designation for R-1 zoning.

**Staff Planner:** Catherine VerEecke, Program Planner

**Attachments:**

1. Application
2. Area and Land Use Maps
3. Letter from North East Valley Association

Bernalillo County Departments and other agencies reviewed this application from 12/13/05 to 1/12/06. Their comments were used in preparation of this report, and begin on Page 11.

**AGENDA ITEM NO.: 19**  
**County Planning Commission**  
**February 1, 2006**

CZ-60001 Jonathan M. Gonzales, agent for Joe H. & Mary Ellen Gonzales, requests approval of a zone map amendment from A-1 to R-1 on Lot 71B & and the easterly portion of Lot 72, MRGCD Map #28, located at 7432 Edith Boulevard NE, located east of the Alameda Lateral north of the Las Colinas Subdivision, containing approximately 3.83 acres. (D-16)

**AREA CHARACTERISTICS AND ZONING HISTORY**  
**Surrounding Zoning & Land Uses**

<b>Site</b>	<b>Zoning</b>	<b>Land use</b>
	A-1	Vacant
<b>North</b>	A-1	Single family residential
<b>South</b>	R-1	Single family residential
<b>East</b>	ROW SU-1(City)	Single Family Residential
<b>West</b>	A-1	Single family residential Alameda Lateral

## **BACKGROUND:**

### **The Request**

The applicant is requesting a zone change from A-1 to R-1 zoning on a 3.83 acre property (approximately) located about 400 feet the east of Edith Blvd., about one mile north of Osuna Rd. between the Alameda Lateral and the Vista del Norte subdivision in the City of Albuquerque.

The property consists of two long and narrow MRGCD parcels. The northerly lot (71b) is about 2 acres and the southerly lot (easterly portion of Tract 72 aka Tract 72b) is about 1.75 acres. There is no direct access to the subject property. A 20 foot wide access easement was granted in 1979 from Edith Blvd. through the residential lot to the west of the Alameda Lateral 71a to the applicants' Tract 71b (See Attachment 1, Application).

The request is for R-1 zoning, although the applicants indicate that they are only seeking to create five lots (See letters to County staff, neighborhood associations, Attachment 1). Each lot would be about .6 acre. (R-1 zoning would allow one-third acre lots).

### **Request justification.**

In the response to Resolution 116-86, the agent argues that the proposed zone change is appropriate for the property. The development would be beneficial to the neighborhood because "it would replace vacant soil with quality home sites." The agent further states he feels the request is not in conflict with the North Valley Area Plan, which states a preference for residential uses, particularly nearby North Edith Blvd. A-1 zoning is no longer appropriate because agricultural uses are not appropriate or likely for the site. He points out that there are several properties nearby and to the south of the property with R-1 zoning, so that the request is not a 'spot zone.'

### **Surrounding Land Uses and Zoning**

The subject property is located in a residential area along the North Edith Corridor. A majority of the properties to the north of the site are zoned A-1, which either have single family dwellings or are vacant. To the immediate north and east, the properties are zoned A-1 and original MRGCD tracts, which range from about one-half acre to more than one acre, some of which have been combined as single family dwellings. About one-half mile to the north properties have M-H zoning with smaller lots. To the south is original Las Colinas subdivision Subdivision, which was rezoned to R-1 in 1978 with lots ranging from about 14,000 feet to more than 1 acre. To the east, properties are in the Vista del Norte subdivision within the City of Albuquerque with lots of about one-fourth acre.

On the west side of Edith Blvd. most properties have A-1 zoning with the exception of one industrial park with M-1 zoning. Directly east of the property, a 13 acre property was granted a Special Use Permit for a Planned Residential Area for 33 lots following the Cluster Housing Principles of the North Valley Area Plan (CSU-95-16).

## **APPLICABLE PLANS AND POLICIES:**

### **Albuquerque/Bernalillo County Comprehensive Plan**

The site is located in the Semi-Urban Area as delineated in the Albuquerque/Bernalillo County Comprehensive Plan. The principal goal for this area is to “maintain the character and identity of semi-urban areas which have environmental, social or cultural conditions limiting urban land uses.”

Policy a (Semi-Urban Area) states “Development in the Semi-Urban area shown by a Plan map shall be consistent with development limitations imposed by topography, soil conditions, groundwater quality, agricultural potential, flood potential, scenic qualities, recreation potential and existing development; overall gross density shall be up to 3 dwelling units per acre.”

However, the Comprehensive Plan also states (Policy c) that new development in the Semi-urban area shall be guided by lower ranking sector and area plans.

### **North Valley Area Plan**

This property is located within the Semi-Urban area of the North Valley Area Plan. The Plan states that properties in this area may have special soil and water limitations or scenic, agricultural, or recreational assets.

The property is also located within the Edith Blvd. Corridor Area, which extends from Menaul Blvd. to Roy/Tramway Rd. west to the Santa Fe Railroad and east to the Municipal Limit. It is in the North Edith Blvd. Sub-Area that extends north from Osuna Road to the Sandia Reservation. This area is characterized mainly as ‘rural’.

The “Trend Scenario” notes an apparent trend toward heavy commercial and light industrial uses along Edith Blvd, encroaching into residential areas and for Edith to become a commercial route.

Under the “Comprehensive Plan” and “Preferred Scenarios”, the North Valley Area Plan states the current situation would be preserved with residential development and less traffic along Edith Blvd., recognizing its historic character. Economic development would be limited to home occupations in the residential areas and small-scale businesses along Edith Blvd.

The “Preferred Scenario” still states a preference for uses allowed under the existing zoning. It states “north of Osuna Road, the pattern along Edith Blvd., should reflect the area’s residential zoning and rural character. Heavy commercial and manufacturing uses would be limited to the vicinity of Paseo del Norte.

Policy 4.4 of the Plan states that the County and City shall encourage rural standards for development especially within the Semi-Urban and Rural Comprehensive Plan areas of the North Valley.

Policy 2 (Land Use) states ‘The City and County shall stabilize residential zoning and land use in the North Valley Area.’ This may be accomplished through the following:

- a. Limit the location, duration, and type of new uses allowed by Special Use Permit.

- b. Cancel discontinued Special Use Permits granted where existing conditions of approval are not met and permits that are otherwise in violation of the Zoning Ordinance.
- c. Retain existing County A-1 zoning as the only Rural Agricultural zone intended to provide agricultural activities and spacious development.
- d. Require landscape buffering and other measures necessary to limit potential impacts of non-residential uses on residential areas.
- e. Retain the low density character of the North Valley.

Policy 2.2.d (Land Use) of the Plan states that “the County and City shall retain the low density character of the North Valley and that the minimum lot area for R-1 zoned land in the Rural area should be three-quarters of an acre.”

Policy 3.a (Land Use) states that “the City and County shall retain existing residential zoning on Alameda Blvd., Second Street, and on future roadway corridors.”

Policy 7.1 states the City and County shall stabilize land use to protect affordable housing and land presently zoned for housing.

- a. Maintain and expand areas zoned for residential uses including A-1, R-1, M-H
- b. Limit encroachment of non-residential uses into residential areas
- c. Encourage residential zoning of parcels with residential uses.

Policy 7.4 (Housing) states “The County and City shall remove disincentives, provide incentives and/or require housing development which meets the cluster Housing Principles of preserving open land, providing new housing at appropriate densities, lower infrastructure costs, and design flexibility and creativity.”

- b. Amend the County Zoning Ordinance to add cluster principles and to include Cluster Housing as a Special Use.
- c. Provide for densities greater than 1 dwelling unit/acre in Rural and Semi-Urban Areas through adoption of Cluster Housing Principles.

### **Bernalillo County Zoning Ordinance**

Resolution 116-86 lists policies for evaluating a Zone Map changes and Special Use Permit applications.

- A. A proposed land use change must be found to be consistent with the health, safety, and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan of other Master Plans and amendments thereto including privately developed area plans which have been adopted by the County.

- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
  - 1. There was an error in the original zone map.
  - 2. Changed neighborhood or community conditions justify a change in land use or
  - 3. A different use category is more advantageous to the community as articulated in the Comprehensive Plan or other County Master Plan, even though (1) and (2) above do not apply.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. A proposed land use change which, to be utilized through land development, requires major and unprogrammed capital expenditures by the County may be:
  - 1. denied due to lack of capital funds; or
  - 2. granted with the implicit understanding that the County is not bound to provide the capital improvements on any special schedule.
- H. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- I. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
  - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted land use plan; or
  - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- J. A zone change request which would give a zone different from the surrounding zoning to a strip of land along a street is generally called a "strip zoning." Such a change of zone may be approved only when:
  - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone due to traffic or special adverse uses nearby.

## **ANALYSIS:**

### **Surrounding Land Use and Zoning**

The applicants have requested a zone change from A-1 to R-1 zoning to allow the development of a residential subdivision on a 3.8 acre tract of land adjacent to the Alameda Lateral. They wish to limit the development 5 lots each of about .6 acre. (A-1 zoning would allow 3 lots, R-1 zoning would allow between 9 and 10 three quarter acre lots).

The request for R-1 could be viewed as consistent with the general zoning and land uses of the area, including a variety of lot sizes and a mixture of mainly A-1 and some R-1 and M-1 zoning and Special Use Permits for both residential uses.

However, an argument could also be made that the request for R-1 is not consistent with the area. There also are a number of properties with A-1 zoning and large lots near the site, which is contrary to what the applicant is proposing. The R-1 zoning that exists to the south of the site was instituted in the late 1970s with lots larger than what R-1 zoning would currently allow (one-third acre).

It is still not clear why the property cannot be developed with 3 lots under A-1 zoning or under a Planned Development Area. A more recent land use change was, in fact, in 1996 from A-1 zoning to a Special Use Permit for a Planned Development Area with cluster housing on the immediate west side of Edith Blvd (CSU-95-16).

### **Plans**

The request appears to be generally consistent with the Comprehensive Plan and the North Valley Area Plan land use designations and in the Semi-Urban area, sewer and water service is available, where lots may be a minimum of one-third of an acre. It also is generally consistent with the North Valley Area Plan policies, which state a preference for residential uses.

However, the proposed density and zoning may not be consistent with the more specific policies and scenarios of the plans. The North Valley Area Plan scenarios suggest that the existing zoning (in this case A-1) should guide future land use, and the Comprehensive Plan states that particular attention should be given to properties in the Semi-Urban Area with special features such as agricultural potential and scenic qualities. Although the applicants note that the development will be semi-rural in character, no site plan is provided to demonstrate this is the case and no justification is provided for the specific density and lot sizes chosen.

The Comprehensive Plan generally defers to the lower ranking plan as regards more specific aspects of development, such as density and site design. In this case, the applicant has not incorporated any of elements of cluster housing, as explicated in the North Valley Area Plan, which is the primary mechanism for adding a rural flavor to a development along with allowing a higher density than under the existing zoning.

### **Zoning Ordinance**

The applicant attempts to argue that this request is consistent with Resolution 116-86 of the Zoning Ordinance in that “changed neighborhood conditions” appear to have taken place including R-1 zoning to the south nearby of the site and the elimination of agriculture in the area.

However, the contrary could hold true in that that land use and density changes may not have not occurred significantly enough in the immediate vicinity of the site to warrant the zone change at the present time. While agriculture may no longer be the norm, a majority of the original MRGCD low-density tracts with A-1 zoning in the area have not changed at all. The elimination of agriculture should not be used to justify the change from A-1 to R-1 as A-1 zoning also allows residential uses.

The justification statement also does not give any definitive evidence that this higher density use is more advantageous to the neighborhood than A-1 zoning as stated in policies or development scenarios of the North Valley Area Plan or the Comprehensive Plan. It appears instead that the property could be developed under A-1 zoning in a manner that is more consistent with the site’s area in terms of lot size and uses than is being proposed by the applicant.

The applicants also pledge to minimize the impact of this development by limiting the number of lots to five (as opposed to 9). However, this can only be accomplished through a site plan in conjunction with an application for a Planned Development Area, which would require a Special Use Permit application and also additional justification for the change of density. In this particular area along Edith Blvd., the trend for land use changes has been to approve Special Use Permits rather than straight zone changes so that conditions of approval may be applied to the development.

### **Agency Comments**

Because this is a request for a zone change, Agency Comments are minimal and are oriented towards Building Permit requirements. County Zoning, Public Works, and Environmental Health comments indicate that if the site is developed, departmental regulations (e.g., water and sewer availability and connections, roads and access, grading and drainage plan, Zoning) must be followed.

County Public Works notes that although an easement exists for this property, it is only 20 feet wide and does not meet County Road Standards. Additional information is being requested of the applicant.

County Environmental Health comments state that a general serviceability statement has been provided for the site, but not for individual lots. Availability could be verified with a site plan.



### Analysis Summary

<b>Zoning</b>	
Resolution 116-86	Must provide additional justification regarding changed neighborhood conditions to justify the zone change. Has not adequately justified the request regarding County Plans and policies.
Requirements	Development would comply with R-1 zoning.
<b>Plans</b>	
Comprehensive Plan	Not clear how it relates to Semi-urban designation.
Area Plan	Appears to be generally consistent with policies that call for residential uses along Edith but makes no specific reference to North Valley Area Plan or Comprehensive Plan policies to justify the density.
<b>Other Requirements</b>	
Environmental Health	Provide availability statement.
Public Works	Does not have approval for 20 foot wide access through neighbor's property.

### Conclusion

Although there appears to be some justification for a zone change on the subject property, staff is unable to recommend approval of the request. The applicants have not demonstrated that the existing A-1 zoning is inappropriate for the site the property, as the property itself and adjacent properties to the north have been developed with A-1 uses. Further, no acceptable justification for requested increase in density (9 dwelling units on 3.83 acres) per the specific criteria of Resolution 116-86 or the North Valley Area Plan has been provided. The applicants have attempted to use the limiting the number of lots to five and their providing a quality semi-rural development as justifications. However, under R-1 zoning, such limitations or conditions will not be possible. If the applicants wish to impose any limitations on the development, a Planned Development Area might be more appropriate, in conjunction with the North Valley Area Plan policies on Land Use and Housing.

Staff recommends deferral of this request so that a site plan can be provided and a justification in accordance with the North Valley Area Plan and Planned Development Area criteria. Access and sewer and water issues must also be addressed prior to approval of any land use change on this property.

The Northeast Valley Neighborhood Association has submitted a letter stating that their members met with the applicant and agent in January 2006, but they have not received any new materials to show that their concerns regarding legal access, site plan, water and sewer availability, and density have been addressed (Attachment 3).

**FINDINGS:**

1. This request is for approval of a zone map amendment from A-1 to R-1 on Lot 71B & and the easterly portion of Lot 72, MRGCD Map #28, located at 7432 Edith Boulevard NE, located east of the Alameda Lateral north of the Las Colinas Subdivision, containing approximately 3.83 acres
2. The property is located in the Semi-Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan and the North Valley Area Plan.
3. The request does not include all necessary information and justification for the development to determine the appropriateness of the proposed land use and residential density in the context of the North Valley Area Plan.

DEFERRAL, based on the above Findings.

Catherine VerEecke  
Program Planner

## **BERNALILLO COUNTY DEPARTMENT COMMENTS**

**Building Department:**

No adverse comments.

**Environmental Health:**

A current water and sewer serviceability statement has been provided. This statement is considered a general serviceability statement and is not specific to the request. This is because the applicant has not provided the utility authority with a "site plan". The utility authority doesn't know the configuration of the development proposal and the siting of the lots.

The necessity for the site plan being provided to the utility authority is to substantiate whether or not the utility system can provide services.

There exists a problematic issue in that this application could be approved by Bernalillo County; but utility service could be denied by the Utility Authority at a later date. Thereby making the proposed lots sub-standard for well and septic tank use. This is according to the well, wastewater and subdivision ordinances of Bernalillo County.

The serviceability statement presented expires in May of 2006. Provide a new site specific water and sewer availability statement.

Sewer and or water infrastructure shall be constructed or financially guaranteed as per City of Albuquerque Water/Sewer Availability Statement prior to final plat sign off. Please coordinate this with Bernalillo County Public Works.

City of Albuquerque water and sewer appears to be available to this property, where applicable availability shall be coordinated with City Public Works. A sewer availability statement will be required. Please contact the City LDC at 924-3989.

A site plan is required.

**Zoning Enforcement Manager:**

Based on the above comments there is no adverse comments at this time. Shall comply with R-1 uses and regulations for Semi-Urban Area.

**Fire:**

No comments received.

Public Works:

DRAN:

1. This property is subject to the Bernalillo County code chapter 38. Prior to any development of this property a drainage submittal meeting the requirements of this code will be required.
2. A grading and drainage plan prepared by an engineer registered in the state of New Mexico, and approved by Bernalillo County Public Works will be required of this development.
3. A Storm Water Pollution Prevention Plan is also required prior to development.

DRE:

The applicant informed Bernalillo County Public Works Division (BCPWD) that access to the site consisted of a 20 foot wide easement crossing the northern edge of the property to the west. BCPWD informed the applicant that this easement is too narrow to allow the construction of road infrastructure improvements that meet the Bernalillo County Street Standards. However, the applicant was informed that should he be able to show that adequate road infrastructure could be constructed within this easement that a variance request could be granted. BCPWD has not received documentation from the applicant to support the appropriateness of this easement for additional development, at the time this comment was created. The applicant shall provide construction plans to BCPWD for road improvements within this easement, for review and approval, prior to approval of the Zone Change.

Parks & Recreation:

No adverse comments at this time.

Sheriff's:

No comment received

**COMMENTS FROM OTHER AGENCIES**

MRGCOG:

AMAFCA:

No comment.

City Planning Department:  
No comments received.

City Public Works:  
Transportation Planning: No adverse comments.

Transportation Development: Any proposed development accessing City roadway will need to follow City of Albuquerque design criteria to address any Traffic and Transportation issues, conflicts and design requirements. Ultimate build out of City roadway must comply with the Long Range Roadway System developed by MRCOG.

Water Resources: In future platting actions, it will be necessary to revise the proposed lot lines so that the existing 20 foot Edith Interceptor Sewer is entirely located in only one lot and does not cross over into two lots.

City Transit:  
No objection.

City Environmental Health:  
No comments received.

City Open Space:  
No comments received.

NMDOT  
No comments.

**NEIGHBORHOOD ASSOCIATIONS:**

Alameda North Valley Association  
Northeast Valley Neighborhood Association  
North Edith Corridor Association